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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/529,676	12/16/2005	Michael William O'Neill	RR-583 PCT/US	8421
20427	7590	05/19/2009	EXAMINER	
RODMAN RODMAN 10 STEWART PLACE SUITE 2CE WHITE PLAINS, NY 10603			DANIEL, JAMAL D	
			ART UNIT	PAPER NUMBER
			3723	
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			05/19/2009	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/529,676	<b>Applicant(s)</b> O'NEILL ET AL.	
	<b>Examiner</b> JAMAL DANIEL	<b>Art Unit</b> 3723	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-48 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-48 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 March 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |                                                                                                                                   |                                                                                         |
|-----------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                                       | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                              | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>7/6/2005</u> . | 6) <input type="checkbox"/> Other: ____.                                                |

***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-23 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

3. In re claim 1, the Applicant claims the substrate side “is adapted to accept an application of an adhesive material”. It is unclear to the Examiner if the Applicant is claiming an adhesive material or only the ability of the substrate side to accept adhesive material.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. **Claims 1-9 and 11-13 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent 5,419,015 (Garcia).**

6. In re claim 1, Garcia discloses a cleaning device for picking up debris, comprising: a support member, wherein the support member is comprised of a support surface; a cleaning pad having an attachment side and a substrate side, wherein the attachment side is releasably attached with the support surface and wherein the substrate side is adapted to accept an application of an adhesive material.

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7. Regarding the limitation of the substrate side being adapted to accept an application of adhesive material, the phrase “adapted to” may be interpreted as intended use. Intended use/functional language does not require that the reference specifically teach the intended use of the element. If the prior art structure is capable of performing the intended use then it meets the claim.

8. In re claim 2, Garcia discloses a releasable attachment mechanism for releasably attaching the attachment side of the cleaning pad with the support surface.

9. In re claim 3, Garcia discloses a releasable attachment mechanism comprised of a hook and loop fastening system.

10. In re claim 4, Garcia discloses the claimed limitations.

11. In re claim 5, Garcia discloses the hook portion being associated with the support surface and the loop portion being associated with the attachment side.

12. In re claim 6, Garcia discloses the claimed limitations.

13. In re claim 7, Garcia discloses an attachment layer of the cleaning pad being releasably attached with the support surface.

14. In re claim 8, Garcia discloses the claimed limitations.

15. In re claim 9, Garcia discloses a cleaning pad comprised of a layer of polyolefin foam.

16. In re claim 11, Garcia discloses a handle connected with the support member.

17. In re claim 12, Garcia discloses a handle pivotably connected with the support member.

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18. In re claim 13, Garcia discloses a handle pivotably connected with the support member such that the handle is capable of pivoting about two axes relative to the support member.

***Claim Rejections - 35 USC § 103***

19. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

20. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

21. **Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 5,419,015 (Garcia).**

22. In re claim 10, Garcia discloses the claimed invention except for closed cell polyethylene foam. Garcia discloses using microporous foam of synthetic plastic material such as polyolefin or the like. It would have been an obvious matter of design

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choice to replace the polyolefin layer of Garcia with a known material such as closed cell polyethylene foam in order to provide a less absorbent, stronger layer.

**23. Claims 14-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Garcia in view of US Patent 4,990,192 (Pallone et al).**

24. In re claims 14-15, Garcia discloses the claimed invention except for and adhesive material and an adhesive material applicator. However, Pallone et al discloses spraying an adhesive from an aerosol container onto a substrate for removing debris from surfaces. Thus, it would have been obvious to one having ordinary skill in the art at the time the invention was made to apply an adhesive material to the substrate layer in order to pick up debris.

25. In re claim 16, Pallone et al discloses a substantially non-transferable adhesive material (column 5, lines 29-35).

26. In re claim 17, Pallone et al discloses an adhesive material with a curing time of less than one minute (column 5, lines 19-23).

27. In re claim 18, Pallone et al discloses an adhesive material having a tack value sufficiently high to enable the cleaning pad to pick up debris effectively.

28. In re claims 19-20, Garcia and Pallone et al disclose the claimed invention except for a non-toxic, odorless adhesive. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use a non-toxic adhesive for a safer, more convenient user experience, as non-toxic adhesives are common and widely available.

29. In re claim 21, Pallone et al discloses an aerosol adhesive applicator.

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30. In re claim 22, Pallone et al discloses applying the adhesive material in a plurality of layers (column 5, lines 36-40).

31. In re claim 23, Pallone et al discloses a plurality of layers of adhesive material interspersed with the debris (column 11, lines 5-10).

32. In re claims 24-29, Garcia discloses the claimed structure and Pallone et al discloses the claimed method of debris removal.

33. In re claims 30-48, Garcia and Pallone et al disclose the claimed invention as applied to claims 1-23.

### ***Conclusion***

34. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US Patent 2,759,860 (Pallos) discloses a method of removing dust using a tacky substrate. US Patent 3,864,778 (Vopat et al) discloses an erasing device made of closed cell polyethylene foam.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JAMAL DANIEL whose telephone number is (571)270-5706. The examiner can normally be reached on Monday - Friday 7:30 am - 5:00 pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Hail can be reached on (571)272-4485. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/JAMAL DANIEL/  
Examiner, Art Unit 3723

/Joseph J. Hail, III/  
Supervisory Patent Examiner, Art Unit 3723